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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,486	07/21/2003	Pierre Garnier	235812US26CONT	4972
22850	7590	07/22/2010	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			VAKILI, ZOHREH	
			ART UNIT	PAPER NUMBER
			1614	
			NOTIFICATION DATE	DELIVERY MODE
			07/22/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/622,486	<b>Applicant(s)</b> GARNIER, PIERRE	
	<b>Examiner</b> ZOHREH VAKILI	<b>Art Unit</b> 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 77-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 77-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

#### **Claims 77-88 are presented for examination.**

Applicant's Amendment filed December 15, 2009 has been received and entered into the present application. Claims 77-88 are pending and are herein examined on the merits.

Applicant's arguments, filed December 15, 2009 have been fully considered. Rejections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

#### ***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form

the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 77-87 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bouyer (FR 2.063.743 A1).

Bouyer teaches a process for evaluating skin relief (English translation, page 1, lines 23-26), comprising the steps of applying a substrate with an adhesive surface onto a test zone of skin (English translation, page 1, line 11) so that the adhesive surface is in contact with the skin at contact locations and not in contact with sunken zones of the skin (i.e., does not contact wrinkles so that they are easily seen on the strip; translation, page 1, lines 23-24); removing the substrate (translation, page 1, lines 11-12; the strip is lifted off); and evaluating an image formed on the adhesive surface of the substrate, wherein the image results from modification of an appearance of the adhesive surface at said contact locations (translation, page 1, lines 10-26. In addition, Bouyer also teaches that the substrate is transparent (translation, page 3, line 6) and that the image represents wrinkles or lines present in the test zone.

Bouyer also teaches a cosmetic treatment process (translation, page 2, lines 7-8), comprising the steps of applying a substrate with an adhesive surface onto a test zone of the skin (translation, page 1, line 11); removing the substrate (translation, page 1, lines 11-12; the strip is lifted off); analyzing an image formed on said analyzing step (translation, page 1, lines 10-26); recommending a care product based on said analyzing step (translation, page 2, lines 6-7; skin type is determined to prescribe a beauty product); and applying said care product on the skin (while Bouyer does not specifically describe the use of the product, it necessarily flows that such use is the presumed result of the prescription based on the skin type determination).

Furthermore, Bouyer teaches that said applying step is performed so that the adhesive surface is in contact with the skin at contact locations and not in contact with sunken zones of the skin (i.e., does not contact wrinkles so that they are easily seen on the strip; translation, page 1, lines 23-24); and said image results from a modification of an appearance of the adhesive surface at the contact locations (translation, page 1, lines 10-26); and that the analyzing step evaluates wrinkles on said skin (translation, page 1, line 23).

In view of the foregoing, claims 77-88 are clearly anticipated.

### ***Response to Arguments***

Applicant argues that "[t]here is simply no basis to conclude that the last paragraph of Bouyer describes an adhesive strip and a beauty product packaged together." Though appreciating Applicant's narrow reading and focus on the "products by mail" portion of the above statement to support his premise that the Bouyer reference does not read on the instant claims, the Office respectfully disagrees and considers the same rationale as but an allegation that lacks factual support.

Although, one might reasonably infer that beauty products are not necessarily required to be a part of the system in Bouyer, the same passage, based on the permissive language of "may" does allow for beauty products to be a part of the system, thus bringing the instant invention within the purview of that previously disclosed. In short, the Office reads the same passage construed by the Applicant as

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including a beauty product with the test device, most especially based on the language "may be used in all cases ..."

Applicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection. In view of the foregoing, claims 77-88 are clearly anticipated.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Vakili whose telephone number is 571-272-3099. The examiner can normally be reached on 8:30-5:00 Mon.-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zohreh Vakili

Patent Examiner 1614

July 16, 2010

***/Ardin Marschel/***

***Supervisory Patent Examiner, Art Unit 1614***